



**DEPARTMENT OF TRANSPORTATION**

**National Highway Traffic Safety Administration**

**[Docket No. NHTSA-2017-0040; Notice 2]**

**Continental Tire the Americas, LLC, Grant of Petition for  
Decision of Inconsequential Noncompliance**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA),  
Department of Transportation (DOT).

**ACTION:** Grant of petition.

**SUMMARY:** Continental Tire the Americas, LLC (CTA), has determined that certain Continental brand tires do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 139, *New Pneumatic Radial Tires for Light Vehicles*. CTA filed a noncompliance report dated March 31, 2017, and later revised it on February 23, 2018. CTA also petitioned NHTSA on April 27, 2017, and amended it on June 28, 2017, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety.

**FOR FURTHER INFORMATION CONTACT:** Abraham Diaz, Office of Vehicle Safety Compliance, NHTSA, telephone (202) 366-5310, facsimile (202) 366-5930.

**SUPPLEMENTARY INFORMATION:**

**I. Overview:** CTA has determined that certain Continental brand tires do not fully comply with paragraphs S5.5(e) and S5.5(f) of

FMVSS No. 139, *New Pneumatic Radial Tires for Light Vehicles* (49 CFR 571.139). CTA filed a noncompliance report dated March 31, 2017, and later revised it on February 23, 2018, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. CTA also petitioned NHTSA on April 27, 2017, and amended it on June 28, 2017, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published, with a 30-day public comment period, on September 29, 2017, in the **Federal Register** (82 FR 45661). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) Web site at: <http://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2017-0040."

**II. Tires Involved:** Approximately 111,500 of the following Continental brand tires, manufactured between December 2, 2012, and March 25, 2017, are potentially involved:

- XL Continental CrossContact UHP size 255/55R18 109Y
- Barum Brillantis 2 size 175/70R13 82T
- Continental ContiTrac size P225/70R15 100S

- XL General Grabber UHP size 275/55R20 117V
- Continental ExtremeContact DWS size 285/30ZR20 99W XL
- Continental CrossContact LX20 size 245/55R19 103S
- XL Continental CrossContact LX20 size 285/45R 114H
- General Altimax RT43 size 215/45R17 87V

**III. Noncompliance:** CTA states that the noncompliance is due to mold errors, and that as a result, the number of tread plies indicated on the sidewall of the subject tires do not match the actual number of plies in the tire construction and in one tire model the ply material was incorrect, as required by paragraphs S5.5(e) and S5.5(f) of FMVSS No. 139. Specifically, below is a list of the subject tires with the labeling as marked (Marked) and how the sidewall should have been marked (Actual):

- XL Continental Cross Contact UHP size 255/55R18 109Y
  - Marked: "PLIES: TREAD: 2 RAYON + 2 STEEL + 2 POLYAMIDE"
  - Actual: "PLIES: TREAD: 2 RAYON + 2 STEEL + 1 POLYAMIDE"
- Barum Brillantis 2 size 175/70R13 82T
  - Marked: "TREAD 4 PLIES: 1 POLYESTER + 2 STEEL + 1 POLYAMIDE"
  - Actual: "TREAD 5 PLIES: 1 POLYESTER + 2 STEEL + 2 POLYAMIDE"
- Continental ContiTrac size P225/70R15 100S

- Marked: "TREAD 4 PLIES: 2 POLYESTER + 2 STEEL"
  - Actual: "TREAD 5 PLIES: 2 POLYESTER + 2 STEEL + 1 POLYAMIDE"
- XL General Grabber UHP size 275/55R20 117V
  - Marked: "PLIES: TREAD: 2 POLYESTER + 2 STEEL + 2 POLYAMIDE SIDEWALL: 2 POLYESTER"
  - Actual: "PLIES: TREAD: 2 RAYON + 2 STEEL + 2 POLYAMIDE SIDEWALL: 2 RAYON"
- Continental ExtremeContact DWS size 285/30ZR20 99W
  - Marked: "PLIES: TREAD: 1 RAYON + 2 STEEL + 2 POLYAMIDE"
  - Actual: "PLIES: TREAD: 2 RAYON + 2 STEEL + 1 POLYAMIDE"
- Continental CrossContact LX20 size 245/55R19 103S
  - Marked: "PLIES: TREAD: 1 POLYESTER + 2 STEEL + 2 POLYAMIDE"
  - Actual: "PLIES: TREAD: 1 POLYESTER + 2 STEEL + 1 POLYAMIDE"
- XL Continental CrossContact LX20 size 285/45R22 114H
  - Marked: "PLIES: TREAD: 2 POLYESTER + 2 STEEL + 2 POLYAMIDE"
  - Actual: "PLIES: TREAD: 1 POLYESTER + 2 STEEL + 2 POLYAMIDE"
- General Altimax RT43 size 215/45R17 87V

- Marked: "PLIES: TREAD: 2 POLYESTER + 2 STEEL + 1  
POLYAMIDE"
- Actual: "PLIES: TREAD: 2 POLYESTER + 2 STEEL + 2  
POLYAMIDE"

**IV. Rule Text:** Paragraphs S5.5(e) and S5.5(f) of FMVSS No. 139

include the requirements relevant to this petition:

- Each tire must be marked on each sidewall with the information specified in paragraphs S5.5(a) through (d) and on one sidewall with the information specified in paragraphs S5.5(e) through (i) according to the phase-in schedule specified in paragraph S7.
- Must include the generic name of each cord material used in the plies (both sidewall and tread area) of the tire.  
S5.5(e)
- Must state the actual number of plies in the sidewall, and the actual number of plies in the tread area, if different.  
S5.5(f)

**V. Summary of CTA's Petition:** CTA described the subject noncompliance and stated its belief that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, CTA submitted the following reasoning:

- a) The tires covered by this petition are labeled with incorrect information regarding the number of tread plies and in two cases, the incorrect and/or missing ply material. However, this mislabeling has no impact on the operational performance of these tires or on the safety of vehicles on which these tires are mounted. The

subject tires meet or exceed all of the performance requirements specified by FMVSS No. 139.

- b) NHTSA has concluded in response to numerous other petitions that this type of noncompliance is inconsequential to safety.
- c) CTA cited three petitions<sup>1</sup> that NHTSA has previously granted and noted that on several occasions NHTSA has stated:

"In the agency's judgment, the incorrect labeling of the tire construction information will have an inconsequential effect on motor vehicle safety because most consumers do not base tire purchases or vehicle operation parameters on the ply material in a tire."

- d) All tires covered by this petition meet or exceed the performance requirements of FMVSS No. 139, as well as the other labeling requirements of the standard.
- e) CTA is not aware of any crashes, injuries, customer complaints, or field reports associated with the mislabeling.
- f) CTA has quarantined all existing inventory of these tires that contain the noncompliant tire sidewall labeling.

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<sup>1</sup> Cooper Tire & Rubber Company, 82 FR 17075 (April 7, 2017); Nitto Tire USA, Inc., 81FR 17764 (April 30, 2016); Hankook Tire America Corp., 79 FR 30688 (May 28, 2014); Bridgestone 78 FR 47049 (August 2, 2013)

g) CTA has corrected the molds at the manufacturing plant, so no additional tires will be manufactured with the noncompliance.

CTA concluded by expressing the belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

CTA's complete petition and all supporting documents are available by logging onto the Federal Docket Management System (FDMS) website at: <https://www.regulations.gov> and following the online search instructions to locate the docket number listed in the title of this notice.

**NHTSA's Analysis:**

The agency agrees with CTA that the noncompliance is inconsequential to motor vehicle safety. NHTSA believes that one measure of inconsequentiality to motor vehicle safety, in this case, is that there is no effect of the noncompliance on the operational safety of vehicles on which these tires are mounted. The safety of people working in the tire retread, repair and recycling industries must also be considered and is a measure of inconsequentiality.

Although tire construction affects the strength and durability of tires, neither the agency nor the tire industry provides information relating tire strength and durability to the number of plies and types of ply cord material in the tread sidewall. Therefore, tire dealers and customers should consider the tire construction information along with other information such as the load capacity, maximum inflation pressure, and tread wear, temperature, and traction ratings, to assess performance capabilities of various tires. In the agency's judgement, the incorrect labeling of the tire construction information will have an inconsequential effect on motor vehicle safety because most consumers do not base tire purchases or vehicle operation parameters on the number of plies in a tire.

The agency also believes the noncompliance will have no measureable effect on the safety of the tire retread, repair, and recycling industries. The use of steel cord construction in the sidewall and tread is the primary safety concern of these industries. In this case, since the tire sidewalls are marked correctly for the number of steel plies, this potential safety concern does not exist.

**NHTSA's Decision:**

In consideration of the foregoing, NHTSA finds that CTA has met its burden of persuasion that the subject FMVSS No. 139 noncompliance in the affected tires is inconsequential to motor



vehicle safety. Accordingly, CTA's petition is hereby granted and CTA is consequently exempted from the obligation of providing notification of, and a free remedy for, that noncompliance under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the subject tires that CTA no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve equipment distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant tires under their control after CTA notified them that the subject noncompliance existed.

**Authority:** (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

**Michael A. Cole,**

*Acting Director, Office of Vehicle Safety Compliance.*

**Billing Code 4910-59-P**

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